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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1416 OF 2005
IN
SUIT NO.3045 OF 1996

Suniti Pundalik Kindloskar)..Plaintiff

Versus

Anuradha R. Padwal and others)..Defendants

Mr.Kishor P. Jain i/b.Bhaishankar Kanga & Girdharlal for the Plaintiff.

Mr.D.B. Parab for Defendant No.4.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 25TH JULY 2006

P.C.:

. Defendant No.4 has filed the present Motion pursuant to the order passed by this Court on 23rd June 1998 in Notice of Motion No.1369 of 1993. The Plaintiff is the daughter of deceased Harishchandra Padwal. Defendant Nos.1(a), (b), (c) and (d) are the children of one of the sons of the deceased. Defendant Nos.2 and 3 are the other sons. Defendant No.4 claims to be the widow of Harishchandra Padwal and contends that the deceased had bequeathed the building to her. The Plaintiff and Defendant Nos.1, 2 and 3 have not accepted Defendant No.4's right to the suit property. However, Defendant No.4 is in possession of Flat No.6, Padwal Bhavan, 2nd Floor, Samartha Nagar, Chunabhatti (East), Bombay 400022. Defendant No.4 contends that she is

maintaining the suit premises and it is difficult for her to pay the property taxes and other outgoings in respect of the suit building with the meagre income that she earns from the suit building. It is in these circumstances, that Defendant No.4 seeks to induct one Ramakant Govind Bidaye and Mrs.Reshma Ramakant Bidaye as a monthly tenant in Flat No.6 which is in her exclusive possession.

2. Defendant No.4 has disclosed in her rejoinder that she would be able to get a maximum of Rupees Five lakhs from the proposed tenant once she vacates the flat.

3. The Plaintiff in her affidavit has contended that a Receiver be appointed and the Plaintiff and the Defendants be permitted to bring a better offer in respect of the premises so that the Plaintiff and the Defendants would benefit. This, according to me, is a fair suggestion.

4. In my view, when the right of Defendant No.4 itself is questioned by the Plaintiff, Defendant No.4 cannot claim an exclusive right to any consideration that would be received from the proposed tenant. Defendant No.4’s insistence on letting out the premises to Ramakant Bidaye and Mrs.Reshma Bidaye is uncalled for.

5. In such circumstances, Motion rejected.